

Remarks

Summary of response to August 17, 2007 Official Action

Claims 1, 3, 5-7, 10-32, 37-39, 41-44, 53-59, 61 and 63-85 remain pending for consideration and Claims 46-50 and 75 are withdrawn due to the April 6, 2006 restriction requirement.

Allowed Subject Matter

The undersigned wishes to thank the Examiner for the indication of allowable subject matter in Claims 13-15, 17-20, 37-39, 41-44, 65, 66, 70, 74, 78, and 81.

Rejections under 35 U.S.C. § 103

Claims 1, 3, 5-7, 10-12, 21-25, 27-30, 31, 32, 53-59, 61, 63, 64, 67-69, 71-73, 76, 77, 79, 80 and 82 stand rejected under 35 U.S.C. § 103(a) as being obvious over Hossainy et al., United States Patent 6,783,793 ("Hossainy"). Applicants respectfully traverse this rejection for the following reason.

Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. §103 via 35 U.S.C. §102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person" (see MPEP Section 706.02(I)(1)). A statement by an attorney of record can be sufficient evidence to establish common ownership (see MPEP Section 706.02(I)(2)(II)).

Hossainy's earliest publication date is August 31, 2004 and its U.S. filing date is October 26, 2000. This application has a U.S. filing date of October 31, 2001. As established by the enclosed Statement of Common Ownership (attached hereto), at the time the invention was made, the invention and Hossainy were owned by, or subject to an obligation of assignment to, Advanced Cardiovascular Systems, Inc., a California corporation.

Accordingly, as the conditions set forth under 35 U.S.C. § 103(c) are satisfied, Hossainy does not qualify as prior art against the claims. For this reason, Applicants respectfully request withdrawal of the rejections of Claims 1, 3, 5-7, 10-12, 21-25, 27-30, 31, 32, 53-59, 61, 63, 64, 67-69, 71-73, 76, 77, 79, 80 and 82 and allowance of these claims.

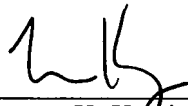
Conclusion

Should the Examiner have any remaining issues, the Examiner may contact the undersigned attorney of record to expedite the closure of this application. The undersigned authorizes the examiner to charge any fees that may be required or credit of any overpayment to be made to Deposit Account No. **07-1850**.

Respectfully submitted,

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